

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

IN THE INTEREST OF: A.G.R.

JUVENILE OFFICER,

Respondent,

v.

A.G.R.,

Appellant.

DOCKET NUMBER WD73007

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 27, 2011

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Marco A. Roldan, Judge

JUDGES

Division Two: Pfeiffer, P.J., and Howard and Martin, JJ.

CONCURRING.

ATTORNEYS

Michael R. Fogal
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Attorney for Respondent,

Megan C. Roth
Kansas City, MO

Attorney for Appellant,

Laurie V. Snell
Kansas City, MO

Guardian *ad litem*.



MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE INTEREST OF: A.G.R.)
)
JUVENILE OFFICER,)
)
Respondent,) OPINION FILED:
v.) December 27, 2011
)
A.G.R.,)
)
Appellant.)

WD73007

Jackson County

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and
Victor C. Howard and Cynthia L. Martin, Judges

The Juvenile Officer filed a delinquency offense petition alleging that sixteen-year-old A.G.R. committed acts, which, if committed by an adult, would have resulted in a charge of statutory sodomy in the first degree. A detention hearing was held; thereafter, A.G.R.'s counsel entered her appearance as A.G.R.'s attorney of record. Subsequently, the Juvenile Officer filed a first amended petition, alleging that A.G.R. had committed status offense acts constituting behavior injurious to the welfare of a child. After a court-ordered competency evaluation of A.G.R., the juvenile court determined that A.G.R. was mentally incompetent and appointed a guardian *ad litem* for him. A.G.R.'s counsel filed a motion to dismiss for lack of jurisdiction or, in the alternative, to suspend proceedings while A.G.R. remained incompetent. The juvenile court denied the motion, and the status offense proceeded to disposition, with the juvenile court finding that A.G.R. was in need of care and treatment.

A.G.R. appeals, arguing: (i) because he had been found incompetent by the juvenile court prior to adjudication, his rights to due process were violated when the proceedings were not dismissed or suspended while he remained incompetent; (ii) the juvenile court reviewed the evidence under the wrong standard of proof; and (iii) his statements made to police officers after he was stopped and in custody and before he was given *Miranda* warnings should have been suppressed, and he should have been taken immediately to the juvenile officer rather than back to the scene of the incident.

Although A.G.R. has been released from the jurisdiction of the juvenile court, the court chose to address the issues raised by A.G.R. based on the public interest exception to the mootness doctrine.

AFFIRMED.

Division Two holds:

1. Juvenile proceedings are in the nature of civil proceedings; therefore, the due process rights accorded criminal defendants do not apply. A status offense is a charge unique to juveniles and is an infraction that allows the juvenile court to take jurisdiction of a child alleged to be in need of care due to, among other things, behavior injurious to welfare. In this case, A.G.R.'s behavior was alleged to be injurious to his welfare and to the welfare of others and, absent his mental disability, might have been a violation of state law. However, rather than alleging delinquency, the Juvenile Officer exercised her discretion and chose to charge A.G.R.'s alleged conduct as a status offense. A.G.R. had the benefit of representation by both counsel and a guardian *ad litem*; therefore, his interests were protected.

2. Due process requires the standard of proof to be beyond a reasonable doubt in the adjudicatory stage of a juvenile *delinquency* proceeding. However, A.G.R.'s conduct was charged as a status offense, not a delinquency offense. Juvenile proceedings are governed by the Juvenile and Family Court Rules of Procedure and, if no procedure is specifically provided, then by the practice and procedure customary in equity proceedings. When issues are tried in equity, the degree of proof is clear, cogent, and convincing evidence. The juvenile court's application of a clear and convincing standard of proof was not error.

3. Police officers did not question A.G.R.; his statements were spontaneous, and the juvenile court did not err in denying A.G.R.'s motion to suppress them.

It was not unreasonable for the officers to return to the scene, which was located only a few blocks from where A.G.R. was apprehended, to confer with A.G.R.'s mother, as it did not involve a lengthy interval of time or a substantial deviation in the officer's proceeding to juvenile court.

Opinion by: Mark D. Pfeiffer, Presiding Judge

December 27, 2011

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